

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4518 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SANJAY CERAMIC INDUSTRIES

Versus

GUJARAT ELECTRICITY BOARD  
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Appearance:

MR SURESH M SHAH for Petitioner  
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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 06/10/97

ORAL JUDGEMENT

Rule.

Mr.R.C.Jani waives service of Rule for the respondents.

The petitioner purchased the industrial unit in question at a public sale held by the GSFC for recovering its loan dues from its borrower M/s Nusrat Ceramic Industries, Wankaner. As the said M/s Nusrat Ceramic Industries had not paid the electric dues, the Gujarat

Electricity Board had disconnected the electric supply before the Unit was purchased by the present petitioner.

The petitioner requested the GEB to restore the electric supply but the respondent did not pay any heed to the said request in view of the fact that the arrears of M/s Nusrat Ceramic Industries were not cleared.

The petitioner has, therefore, approached this Court invoking the decision of the Supreme Court in the case of M/s Isha Marbles Vs. Bihar State Electricity Board 1995(2) GLH 134 holding that an auction purchaser is not liable to discharge liability of former owner in respect of its electricity dues.

There is no dispute about the fact that the present case is covered by the principle laid down by the Supreme Court in the aforesaid decision. Hence the petition is required to be allowed.

The respondents are directed to restore the electricity supply to the petitioner without requiring the petitioner to pay the dues of M/s. Nusrat Ceramic Industries, Wankaner. The petitioner shall, however, be liable to pay the other usual charges and to comply with the other procedural requirements for obtaining such electricity supply.

Rule is made absolute to the aforesaid extent.

In view of the fact the the property was purchased by the petitioner at a public sale held by the GSFC and the matter is covered by the judgment of the Supreme Court, the respondent ought not to have insisted for payment of dues of the previous owner. Mr. Jani, however, submitted that some time the factory owner who has not paid dues of the GEB enters into private arrangement with another party and the purchaser still pleads that he is not liable to pay dues and therefore, the GEB is required to examine each individual case to ascertain whether the case is covered by the principle laid down in the aforesaid decision of the Supreme Court and therefore, it takes some time. In view of this submission the respondents are not directed to pay the costs of the petition in the present case. However, in case more such cases crops before the Court, the Court will have no alternative but to award the costs if the electricity is not restored even if the case of an unit is covered by the aforesaid principle laid down by the Supreme Court and the concerned party is ready and willing to comply with all other procedural requirements.

Direct Service is permitted.

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